

1 STEPHEN P. SWINTON (106398)
2 J. CHRISTOPHER JACZKO (149317)
3 COOLEY GODWARD LLP
4 4365 Executive Drive, Suite 1100
5 San Diego, CA 92121-2128
6 Telephone: (858) 550-6000
7 Facsimile: (858) 453-3555

8 DOUGLAS E. OLSON (38649)
9 BROBECK PHLEGER & HARRISON LLP
10 12390 El Camino Real
11 San Diego, CA 92130
12 Telephone: (858) 720-2500
13 Facsimile: (858) 720-2555

14 R. WILLIAM BOWEN, JR. (102178)
15 GEN-PROBE INCORPORATED
16 10210 Genetic Center Drive
17 San Diego, CA 92121-4362
18 Telephone: (858) 410-8918
19 Facsimile: (858) 410-8637

20 Attorneys for Plaintiff
21 GEN-PROBE INCORPORATED

22 UNITED STATES DISTRICT COURT
23 SOUTHERN DISTRICT OF CALIFORNIA

24 GEN-PROBE INCORPORATED,

25 Plaintiff,

26 v.

27 VYSIS, INC.,

28 Defendant.

No. 99CV2668 H (AJB)

**DECLARATION OF J. CHRISTOPHER JACZKO IN
SUPPORT OF OPPOSITION TO MOTION FOR
ENTRY OF FINAL JUDGMENT UNDER
RULE 54(B)**

Date: July 30, 2001
Time: 10:30 a.m.
Dept.: Courtroom 1

I, J. CHRISTOPHER JACZKO, declare:

1. I am an attorney duly licensed to practice before this Court and am a partner with Cooley Godward LLP, attorneys of record herein for plaintiff Gen-Probe Incorporated. I am familiar with the matters set forth below based on my personal knowledge.

///

1 Motion for Stay and for Dismissal of Fourth Cause of Action.

2 3. Attached to the NOL as Exhibit 2 is a true and correct copy of the Order Granting
3 Motion for Partial Summary Judgment of Non-Infringement of the '338 Patent; Claim
4 Construction of the Term "Amplifying" as Found In the '338 Patent.

5 4. Attached to the NOL as Exhibit 5 is a true and correct copy of the Stipulation Re
6 Second Amended Pre-Trial Schedule' [Proposed] Order Thereon

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct and that this declaration was executed by me on this 10th day of July,
9 2001 at San Diego, California.

10 
11 J. Christopher Jaczko